

FILED

2018 JUL 24 10:24

CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

BUSINESS COURT DIVISION- WEST VIRGINIA SUPREME COURT OF APPEALS

IN THE CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

SOARING EAGLE LODGE MASTER
ASSOCIATION, INC., a West
Virginia non-profit corporation;
and SOARING EAGLE LODGE
ASSOCIATION, INC. a West
Virginia non-profit corporation,

Plaintiffs,

v.

CIVIL ACTION NO. 15-C-2202
Presiding Judge: Tabit
Resolution Judge: Matish

SOARING EAGLE DEVELOPMENT
COMPANY, LLC, a West Virginia
limited liability company;
GBBN ARCHITECTS, INC., an
Ohio corporation; and BRANCH &
ASSOCIATES, INC., a Virginia
corporation,

Defendants,

and

SOARING EAGLE DEVELOPMENT
COMPANY, LLC, a West Virginia
limited liability company; and
BRANCH & ASSOCIATES, INC., a
Virginia corporation,

Third-Party Plaintiffs,

v.

TRI-STATE ROOFING & SHEET METAL
COMPANY OF WEST VIRGINIA, a/k/a
TRI-STATE ROOFING & SHEET METAL CO.,
a West Virginia corporation;
APPLIED MECHANICAL SYSTEMS, INC.,
an Ohio corporation; RICHARDSON
AND MARCH CARPENTRY, LLC., a West

Virginia limited liability company;
EASTCOAST SIDING, INC., a Maryland
Corporation,

Third-Party Defendants,

and

BRANCH & ASSOCIATES, INC., a
Virginia corporation,

Third-Party Plaintiff,

vs.

O.C. CLUSS LUMBER COMPANY, a
Pennsylvania corporation;
GAF MATERIALS CORPORATION, a New
Jersey corporation; QUALITY STONE
VENEER, INC.; MODERN LIGHTNING
PROTECTION, INC.; JAMES HARDIE
BUILDING PRODUCTS INC.; and
FIBERON, LLC,

Third-Party Defendants,

and

O.C. CLUSS LUMBER COMPANY, a
Pennsylvania corporation,

Fourth-Party Plaintiff,

vs.

GAF MATERIALS CORPORATION, a New
Jersey corporation; and FIBERON,
LLC, a North Carolina limited
liability company,

Fourth-Party Defendants,

and

SOARING EAGLE DEVELOPMENT COMPANY,
LLC., a West Virginia limited
liability company,

Third-Party Plaintiff,

vs.

THE TRAVELERS INDEMNITY COMPANY
OF AMERICA, a Connecticut
corporation; and TRAVELERS PROPERTY
AND CASUALTY COMPANY OF AMERICA,

Third-Party Defendant.

**ORDER FILING PLAINTIFFS' EXHIBITS UNDER SEAL AND
AUTHORIZING PARTIES TO FILE CONFIDENTIAL MATERIAL UNDER SEAL**

Now before the Court are issues relating to the terms of the settlement reached at the mediation held on June 15, 2018. Plaintiffs have filed their *Motion to Enforce Settlement*, and they now submit three exhibits in support of their motion. The three exhibits contain the terms of the confidential settlement reached as a result of the mediation. The parties have agreed that the terms of settlement shall remain confidential and same should not be disclosed publicly at this time. Plaintiffs request that the three exhibits attached to this Order be considered in relation to their motion and all other motions, responses, and exhibits filed by all other parties to this civil action. Therefore, Plaintiffs assert that good cause exists to file their three attached exhibits under

seal so that same can be reviewed, evaluated, and considered *in camera* by this Court.

Accordingly, the Court finds that good cause exists to file the three exhibits submitted by Plaintiffs, under seal, and to permit all other parties to hereafter file any motions, responses, and exhibits as they deem necessary to address the issues now before the Court, under seal, without requiring further authorization to do so.

It is therefore ORDERED that Plaintiffs' three exhibits be filed by the Circuit Court, under seal, and shall remain so protected until further order of this Court.

It is further ORDERED that all other parties to this civil action may hereafter file their motions, responses, and exhibits containing confidential settlement information, under seal, by enclosing all filings in an envelope designated and marked with the style of this civil action, the type of document being filed, the party filing same, and that such filing is to be made under seal with reference to this Order.

It is further ORDERED that all parties making any filing under seal pursuant to this Order shall provide a copy of such filing to the Court via U. S. Mail or hand delivery to Chambers and shall serve same upon all counsel of record.

The Clerk is directed to file, of record, this Order, and transmit same to all counsel for each party named in this civil action.

Enter: July 24, 2018

Joanna I. Tabit
JOANNA I. TABIT, JUDGE

PREPARED AND SUBMITTED BY:

JMB
J. Michael Benninger, Esquire
W.Va. State Bar No. 312
Benninger Law PROFESSIONAL LIMITED LIABILITY COMPANY
P. O. Box 623
Morgantown, WV 26507
(304) 241-1856
mike@benningerlaw.com

Counsel for Plaintiffs

STATE OF WEST VIRGINIA
COUNTY OF KANAWHA, SS
I, CATHY S. GATSON, CLERK OF CIRCUIT COURT OF SAID COUNTY
AND IN SAID STATE, DO HEREBY CERTIFY THAT THE FOREGOING
IS A TRUE COPY FROM THE RECORDS OF SAID COURT
GIVEN UNDER MY HAND AND SEAL OF SAID COURT THIS 25
DAY OF July 2018
Cathy S. Gatson CLERK
CIRCUIT COURT OF KANAWHA COUNTY, WEST VIRGINIA

Date: 7/24/18
Certified copies sent to:
 counsel of record
 parties
 other (please indicate)
By: Judge Mitchell
 certified/1st class mail Bus Ct
 fax MM
 hand delivery NS
 interdepartmental SG
Other directives accomplished:
MB
Deputy Circuit Clerk
MU
MA
RH
SG
JM
JH
JS
RS
NS
RT
EP
EH
WA

CERTIFICATE OF SERVICE

FILED

2018 JUL 24 PM 3:25
CATHY S. GATSON, CLERK
KANAWHA COUNTY CIRCUIT COURT

I, J. Michael Benninger, counsel for Plaintiffs, do hereby certify that on July 20, 2018, the foregoing *Order Plaintiffs' Exhibits Under Seal and Authorizing Parties to File Confidential Material Under Seal*, with Plaintiffs' Exhibits 1, 2, and 3, were duly served upon counsel of record via e-mail and by depositing true and exact copies thereof in the regular course of the United States Mail, First Class, postage prepaid, addressed as follows:

Shawn P. George, Esquire
sgeorge@gandllaw.com
Co-Counsel for Defendant Soaring
Eagle Development Company, LLC

John L. MacCorkle, Esquire
jmaccorkle@mlclaw.com
Carrie Dysart, Esquire
cdysart@mlclaw.com
Co-Counsel for Defendant Soaring
Eagle Development Company, LLC

Stephen F. Gandee, Esquire
sfg@ramlaw.com
Counsel for Defendant GBBN Architects, Inc.

Edgar Allen Poe, Jr., Esquire
epoe@pffwv.com
Anna F. Ballard, Esquire
aballard@pffwv.com
Counsel for Defendant Branch & Associates, Inc.

Ronald H. Hatfield, Jr., Esquire
hatfield@litchfieldcavo.com
Counsel for Third-Party Defendant
Applied Mechanical Systems, Inc.

Michael A. Frye, Esquire
maf@jenkinsfenstermaker.com
*Counsel for Third-Party Defendant Tri-State
Roofing & Sheet Metal Company of West Virginia*

Michael Markins, Esquire
mmarkins@c-wlaw.com
*Counsel for Third-Party
Defendant Eastcoast Siding, Inc.*

Randall L. Trautwein, Esquire
rtrautwein@lbltplaw.com
*Counsel for Third-Party Defendant
O. C. Cluss Lumber Company*

Natalie C. Schaefer, Esquire
nschaefer@shumanlaw.com
*Counsel for Third-Party Defendant
Richardson and March Carpentry, LLC*

Isaac R. Forman, Esquire
iforman@baileyglasser.com
*Counsel for Fourth-Party Defendant
GAF Materials Corporation*

John A. "Jack" Smith, Esquire
jsmith@flahertylegal.com
*Counsel for Third-Party Defendants The Travelers
Indemnity Company of America and
Travelers Property and Casualty Company of America*

Spencer D. Elliott, Esquire
selliott@lewisglasser.com
Counsel for Third-Party Defendant Fiberon, LLC

Nicholas R. Stuchell, Esquire
nstuchell@danielslawfirm.com
*Counsel for Third-Party Defendant
Modern Lightning Protection, Inc.*

John W. Hays, Esquire
jwhays@jacksonkelly.com
*Counsel for Third-Party Defendant
James Hardie Building Products Inc.*

Eric Hulett, Esquire
eric.hulett@steptoe-johnson.com
*Counsel for Third-Party Defendant
Quality Stone Veneer, Inc.*



Counsel for Plaintiffs